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**The Grandfather-Clause in Oklahoma, *Guinn v. US*:
A Case Study**

I. Introduction

Slaves were transferred to the territory of the United States from the 16th century. According to the recent research, between 1501 and 1875 approximately 365 713 African slaves were transferred to the territory of the United States, the population of the African Americans were 697 897 in 1790². In 1865 after the American Civil War the Congress and the Northern-States³ accepted Amendment XIII to the Constitution of the United States that prohibited slavery in the United States and gave Congress the power to legislate for the abolition of slavery. During that time the first so-called *Black-Codes* were introduced in the South, in this way the Southern States reacted to the African Americans human rights and the abolition of slavery, according to these laws, African Americans were forced to work on their former master's land, so *de facto* their position has not changed.⁴ After the Civil War the Congress passed the Civil Right Act of 1866, which was designed to defend the African Americans from discrimination and to protect their human rights. The controversy over the Civil Rights Act was then resolved by the Republicans, who held huge majorities in both houses of Congress⁵, by adding amendments to the Constitution, which became the Fourteenth and Fifteenth Amendments. Amendment XIV gave citizenship to the African Americans and prohibited any form of discrimination against them. The second article of the Amendment threatened those States with downing their representation in Congress if they deny the right to vote of any citizen older than 21. It also sets out a taxonomy of elections where disenfranchisement is prohibited. Katalin Szegvári Nagyné argues that in the light of this taxative list, the practice of the following decades should be particularly examined, as it was later argued in many southern states that African Americans could vote in some elections and not in others.⁶

Despite the Republican majority, the Fifteenth Amendment was not entirely clear-cut, given the fact that a section of the party did not support the right of African Americans to vote. At the same time, it was becoming clear that a Republican majority would be difficult to secure in the post-Reconstruction era, which is why the need to enfranchise African Americans became important to many. Finally, after the presidential election of 1868, which was won overwhelmingly by Ulysses S. Grant⁷, the radical wing of the Republican Party saw the time ripe for a suffrage amendment, proposed by George Boutwell of Massachusetts. In the debates that followed, several arguments were made that later turned out to be completely well-founded. One of these was the claim that the wording of the text did not take into account indirect racial

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² Lévai, Csaba: Feketék az USA-ban. In *Élet és Irodalom* vol. LXIV, no. 36. (2020.09.04.)

³ At that time, the legal status of the Southern States had not yet been restored in the Union, given that the Civil War had not yet ended.

⁴ Degler, Carl Neumann: *Az elő múlt.* (trans. Szuhay-Havas, Ervin and Zinner, Judit), Európa Könyvkiadó, Budapest, 1993, pp. 220-221.

⁵ During the Fortieth Congress (1867–1869), 173 of the 261 members of the House of Representatives were Republicans, and 57 of the 68 Senators in the Senate were Republicans. (source: <https://history.house.gov/Congressional-Overview/Profiles/40th/>, <https://www.senate.gov/history/partydiv.htm>).

⁶ Nagyné Szegvári, Katalin: *Fejezetek az Amerikai Alkotmány történetéből.* hvgorac, Budapest, 2002, pp. 61-64.

⁷ Ulysses Simpson Grant was the 18th President of the United States of America, serving from 1869 to 1877.

discrimination.⁸ During the Reconstruction era, legislation began in the South that sought to undermine the equal rights efforts through the use of the *Black-Codes*, which kept freed slaves in a *de facto* disenfranchised. After the discussion and arguments of the text, Amendment XV. came affect with the following text:

'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.'

II. The legal issue

For decades after Amendment XV, the Southern States allowed African Americans to exercise their political rights. In Mississippi and South Carolina, an attempt even began to break the trend that threatened to end the Democratic Party that African Americans were all Republicans, and they recruited them into the party and ran them in elections. The Democrats even nominate an African American to a secretary of the state of Mississippi in 1877. The African Americans were part of the Federal representation of the Southern States, between 1877 and 1900 there were always a Southern African American in Congress – except one term.⁹ However, the Democrats could not integrate the African Americans to their party, yet there was a chance that if the African Americans could freely exercise their voting rights, the United States would become a *de facto* one-party country as it was during the Reconstruction era. The recent research showed that the Democrats' fear was well founded, because the African Americans were in absolute majority in Louisiana, Mississippi and South Carolina, and in four southern states 40% of the population were African American in 1880.¹⁰

In the end of the 19th century, it became clear that equal rights did not mean the same for the southern' as the northerner'. The Southern States began to legislate against the Northerner's equal rights movement with the application of the *Black-Codes* that made the newly freed slaves, *de facto* disenfranchised.¹¹ In the following decades the infamous Jim-Crow era began with one of the first bill, i.e. the Tennessee railroad bill that separated the African Americans and the white people in train cars. In fact, the law went even further, giving individual service providers the power to exclude anyone from their services on any grounds. A federal court challenged the law, arguing that it was contrary to federal trade rules. There was a long line of laws that allowed and even required segregation in some southern states. Several were challenged in the Supreme Court, but the Court upheld them in cases such as *Louisville, New Orleans and Texas Railway Company v. Mississippi*.¹²

The Supreme Court directive on segregation was issued in 1896 in the landmark case of *Plessy v. Ferguson*. The plaintiff, who had been fined for not occupying a seat in a coloured car, went to court, claiming that the segregation law was contrary to Amendment XIV. In his argument, he argued that as a U.S. citizen who is 7/8 Caucasian and 1/8 African American, he does not appear to be of a different colour of the skin and therefore has all the rights that any other white American has, and that he purchased the ticket that entitled him to be in the car

⁸ Finkelman, Paul (Editor-in-Chief): *Encyclopedia of the United States in the Nineteenth Century*. Charles Scribner's Sons, New York, 2001. pp. 316-317.

⁹ Degler, Carl Neumann: *op. cit.* pp. 237-238.

¹⁰ Chin, Gabriel Jackson – Wagner, Randy: *The Tyranny of the Minority: Jim Crow and the Counter-Majoritarian Difficulty*. In *Harvard Civil Rights-Civil Liberties Law Review*, vol. 43 (2008) p. 65, and *Arizona Legal Studies Discussion Paper No. 07-03*.

¹¹ Rigó, Balázs: 1867 as the Year of Constitutional Changes Around the World. In *ELTE Law Journal* vol. 6. (2017) no. 2, pp. 39-63.

¹² Folmsbee, Stanley John: *The Origin of the First "Jim Crow" Law*. In *The Journal of Southern History*, vol. 15 (1949) no. 2, DOI: 10.2307/2197999, 235–247.

reserved for whites. The court dismissed the action, Chief Justice Brown argued that the purpose of Amendment XIV was equality of rights, but that did not mean that African Americans were equal in terms of colour, social status or even political status, and that racial inequality was a natural thing, as was social inequality.¹³ For almost half a century thereafter, the principle of 'equal but separate' for African Americans prevailed in legislation. Carl Neumann Degler argues that segregation itself is a middle ground where the 'radicals' of the North and the South met, since the radical South wanted to exclude African Americans from most services, such as public education and public offices, whereas the 'radical' Northern position, reflected in the constitutional amendments, wanted full equality. According to Degler, segregation was therefore a compromise that both sides had to accept, and it became *status quo* for a long time.¹⁴

The South tried to find an 'antidote' to Amendment XV to the Constitution that gave African Americans the right to vote. The idea of disenfranchising African Americans first came up at Mississippi's Constitutional Convention in 1890. However, it ran into difficulties for several reasons: on the one hand, the states had to find a solution that did not conflict with the text of Amendment XV, i.e., was not directly discriminatory against African Americans, and on the other hand, indirect discrimination did not exclude large numbers of white citizens who were Democratic voters. A significant number of southern states, on the assumption that African Americans would not be able to meet these criteria, chose to make the right to vote conditional on literacy.¹⁵ The federal government sought to protect the Amendment XV, Congress sought to legislate to remedy the situation, but the Supreme Court in *State v. Reese*¹⁶ ruled unconstitutional the federal Voting Rights Act, which sought to enforce Amendment XV throughout the federal government. The Supreme Court reasoned that the federal legislature does not have the power to regulate, to prohibit individual states from requiring citizens to know how to read and write to vote in order to exercise the right to vote, or to pay a poll tax and other techniques by which states disenfranchise African Americans when not directly related to racial origin. Cases such as *Williams v. Mississippi*, in which the court also failed to come out in defense of Amendment XV, showed the Americans that the Supreme Court is not seeking to ensure African Americans the protection of their voting rights. However, those legislation, that aimed to exclude the African Americans also had the drawback of excluding many white Americans from voting, for example, in Louisiana the number of white voters fell by thirty-five thousand following the introduction of the literacy test.¹⁷ In order to avoid having to exclude White Americans in a large number from voting even if they are illiterate, the so-called '*grandfather clause*' was introduced, whereby those whose ancestors already had the right to vote did not have to take the literacy test.¹⁸

III. Facts of the case

In 1907, Oklahoma became the 46th state of the United States, founded in the former Indian Territory. Article IV of the US Constitution gives Congress the power to admit new states into the union, but these states must also have their own constitution, legislature,

¹³ Nagyné Szegvári, Katalin: op. cit. p. 66.

¹⁴ Degler, Carl Neumann: op. cit. p. 238.

¹⁵ On the topic, see also Lévai, Csaba: A fekete afrikaiak rabszolgává válásának kulturális tényezői az észak-amerikai angol gyarmatokon. In Németh, Lenke; Simon, Zoltán; Tarnóc, András; Varró, Gabriella (eds.) Mítoszok bűvöletében. Ünnepi kötet Virágos Zsolt Kálmán 70. születésnapjára [= Enchanted by Myth. A Volume for Virágos Zsolt Kálmán on his 70th Birthday]. Debrecen, Debreceni Egyetemi Kiadó, 2012, pp. 129-141.

¹⁶ United States v. Reese, 92 U.S. 214 (1875).

¹⁷ Degler, Carl Neumann: op. cit. p. 238.

¹⁸ Tepker Jr., Harry F.: The Dean Takes His Stand: Julien Monnet's 1912 Harvard Law Review Article Denouncing Oklahoma's Discriminatory Grandfather Clause. In: Oklahoma Law Review vol. 62 (2010) no. 3, pp. 427-448.

executive and judiciary branches. Oklahoma's constitution at the time of its admission to the union conformed to the US Constitution, so that African Americans had the right to vote. However, in 1910, Oklahoma held a referendum in which 230,000 of its 250,000 voting citizens voted and 130,000 voted in favor of amending the state constitution.¹⁹

*'No person shall be registered as an elector of this State or be allowed to vote in any election herein, unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such constitution. Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this section shall be enforced by the precinct election officer when electors apply for ballots to vote.'*²⁰

The essence of the grandfather clause in Oklahoma was that all persons who had the right to vote before January 1, 1866 – the effective date of Amendment XV –, were exempt from proving that they could read and write, not only those persons, but also those who had an ancestor who had the right to vote.

The purpose of this provision was clearly to exclude African Americans, especially so that those who were citizens of other states before January 1, 1866, could also vote. Whether the Oklahoma constitutional amendment violates Amendment XV, it was first addressed to the United States Constitution by the Oklahoma Supreme Court in *Atwater v. Hasett*, which held that the provision was constitutional. The court found reasonable the portion of the amendment that did not require proof of literacy for persons whose ascendants had previously had the right to vote but did require it for persons whose ascendants had not. The court concluded that the ascendants who previously had the right to vote had passed on the knowledge and culture necessary to exercise political rights to their descendants.²¹

One of the preeminent legal scholars of the time, Julien C. Monnet, Dean of the University of Oklahoma Law School, challenged the Grandfather clause in an essay in the Harvard Law Journal. He argued that Amendment XV guarantees the right to vote regardless of race, so that no state has the right to enact legislation to the contrary, and that the Oklahoma amendment therefore violated Amendment XV. In his view, the violation was that, although the Oklahoma Amendment did not contain the term 'race', it nevertheless indirectly infringed a fundamental right of African Americans guaranteed by the United States Constitution. He sharply criticized the Oklahoma Supreme Court for its ruling in *Atwater v. Hasset*, stating that the court's reasoning that political rights are inherited *de iure* from ancestors is contrary to the American spirit. He also said that he believes the case will be before the Supreme Court in a few years.²²

In 1911, two Oklahoma election officials, Joe Beal and Frank Guinn, were indicted for conspiracy in federal court.²³ On the day of the federal election, November 7, 1910, three persons, the Supervisor Joe Beal, Judge Frank Guinn and Clerk of Court, C.W. Stephenson, performed election law duties at one polling place in accordance with Oklahoma law. Guinn and Beal disqualified Stephenson, who was a coloured man, from their election committee,

¹⁹ Nagyné Szegvári, Katalin: op. cit. p. 66.

²⁰ *Guinn & Beal v. United States*, 238 U.S. 347 (1915).

²¹ *Atwater v. Hasset* (1910). 111 P. 802, 27 Okla. 292.

²² Monnet, Julien C.: The Latest Phase of Negro Disfranchisement. In *Harvard Law Review*, vol. 26 (1912) no. 1, pp. 42-63. DOI: 10.2307/1324271.42-63.

²³ Darcy, Robert: Did Oklahoma African Americans Vote Between 1910 and 1943? In *The Chronicles of Oklahoma*, (Summer) 2015, vol. 93, pp. 72-98.

despite testimony that they were aware that the man could read and write. They later denied the vote to several people of color who, by virtue of their office, were presumed to be literate.²⁴

The Republicans wanted to press charges, even though then US President Taft²⁵ was not progressive on voting rights. A renegade federal prosecutor, however, brought charges, and in the end even President Wilson²⁶, a Democrat, did not prevent the case from going to the Supreme Court.

In view of the location of the offense and the fact that the charged offense qualified under Article 19 of the federal criminal code, the United States District Court for the Western District of Oklahoma was the court of first instance. The facts and punishment for conspiracy under the federal criminal code in effect at the time of trial were as follows:

*'If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars and imprisoned not more than ten years, and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the Constitution or laws of the United States.'*²⁷

The trial judge instructed the jury that in a conspiracy case, they must find that the defendants committed the crime with the direct intent to commit a felony, that they were motivated by evil intent to deprive African Americans of the right to vote. In the court's view, the question that had to be resolved was whether, the Oklahoma Amendment was contrary to the United States Constitution, but whether the defendants could have known that, or whether they acted in the belief that what they were doing was eminently lawful and that they were carrying out the duty with which they were charged if and when the Oklahoma Constitution precluded African-Americans who could not read and write the Oklahoma Constitution from voting.²⁸

Ultimately, the court found that the suspects had conspired 'because they willfully, unlawfully and fraudulently conspired to deprive two Negro citizens of their right to vote in the general election solely on the basis of race.'²⁹

Following the defendants' appeal, the case proceeded to the Eighth Circuit Court of Appeals³⁰, where two questions were posed to the U.S. Supreme Court and asked for its decision. The Court of Appeals granted certificate to the appeal and therefore the Supreme Court was obliged to hear the case.³¹ The questions were: is the Oklahoma Constitution Amendment lawful, and can the literacy test itself be considered lawful if it does not include a disqualification for those who were eligible to vote before January 1, 1866, and their descendants?

The Supreme Court of the United States of America heard the case of Frank Guinn and J.J. Beal v. United States between October 13, 1913 and June 25, 1915. Two '*amicus curiae*

²⁴ Guinn v. United States, 228 F. 103 (1915).

²⁵ William Howard Taft was the 27th President of the United States of America, serving as President from 1909 to 1913, for a biography of Taft, see. Beke-Martos, Judit: William Howard Taft és a hatalmi ágak az Amerikai Egyesült Államokban. In Peres, Zsuzsanna – Bathó, Gábor (ed.): Ünnepi tanulmányok a 80 éves Máthé Gábor tiszteletére: Labor est etiam ipse voluptas. Ludovika Egyetemi Kiadó, Budapest, 2021, pp. 107-116.; and Hahner, Péter: Az USA elnökei. Animus Kiadó, Budapest, 2012.

²⁶ Wilson was the 28th President of the United States of America, serving from 1913 to 1921.

²⁷ Guinn & Beal v. United States, 238 U.S. 347 (1915).

²⁸ Guinn v. United States, 238 U.S. 347 (1915).

²⁹ Tepker Jr., Harry F.: op. cit. pp. 436-439.

³⁰ The territory of the United States is divided into 11 districts of the Court of Appeals.

³¹ Nagyné Szegvári, Katalin: op. cit. p. 68.

briefs' were filed with the court to convince the court of their own right. One was Senator Joseph W. Bailey of Texas, who argued in favor of the Oklahoma amendment, while the NAACP³² argued that the Oklahoma grandfather clause was contrary to the Fourteenth and Fifteenth Amendments to the U.S. Constitution and therefore unconstitutional.³³ Chief Justice White's opinion on the decision provides posterity with an opportunity to understand the decision that the court made.

The court examined the voting rights provisions of the Oklahoma Constitution before amending the Constitution, which states that '[t]he qualified electors of the State shall be male citizens of the United States, male citizens of the State, and male persons of Indian descent native of the United States, who are over the age of twenty-one years, who have resided in the State one year, in the county six months, and in the election precinct thirty days, next preceding the election at which any such elector offers to vote.'³⁴ Examining the pre-Amendment condition, it is clear that it was in no way inconsistent with the Amendment XV, in view of the fact that it contains neither a term referring to 'race' nor any other circumstance that would give rise to a presumption of indirect or direct discrimination.

The federal government, which took the position of defendant in the present case, contends that the Oklahoma amendment conflicts with Amendment XV. in that it ties certain rights to a date prior to January 1, 1866. The argument is based on the fact that, while the discrimination itself is not direct, it is nonetheless a violation of the prohibition against discrimination in voting rights in substance and effect. Here I am of the opinion that it worths noting that Dean Monett had reached this conclusion years earlier when he examined the amendment.

The applicants' position, however, was that the power to regulate elections was vested in the States, was not taken away by the Amendment XV, and that in the exercise of that power no legislation had been enacted which would violate the prohibition of discrimination. Moreover, unconstitutionality can be found in the Oklahoma Amendment only if and to the extent that the federal government's purpose is nothing more than to deprive the states of their powers to vote, expressly or impliedly, through federal judicial supremacy or by subjectively interpreting legislative intent.

However, defendant points out that it is not at all the purpose of the federal government to deny that the states have the right to make decisions regarding the right to vote, but merely to argue that the Fifteenth Amendment does not take away that right, but rather places a limit on the exercise of that right by the states. Further, the federal government does not even dispute the issue that the states have the right to legislate, for it has not argued that requiring literacy itself is unconstitutional, rules to that effect, is a sovereign decision of the states. The federal government argues that if a state has the ability to enact legislation – in this case, an amendment – that has the potential to undermine the Constitution, it is unconstitutional *ab ovo*.

IV. The ruling

The court started from that question and considered whether the Oklahoma Amendment was in fact contrary to Amendment XV. If the answer is yes, as White writes, then the question is whether direct discrimination was indeed the legislature's intent. If the answer to the previous question is yes, then the second inquiry is how the invalid grandfather clause affects the rest of the Amendment, namely the literacy requirement.

³² The National Association for the Advancement of Colored People is an African American rights organization (<https://naacp.org/>)

³³ Nagyné Szegvári, Katalin: op. cit. p. 68.

³⁴ Guinn v. United States, 238 U.S. 347 (1915).

The court examined the relationship between Amendment XV and the Oklahoma Amendment. An extremely sensitive issue and one that has been with Americans since independence is what rights the states have and what belongs to the federal government. Article I, Section 1 of the US Constitution provides that Congress has powers only in cases that are specifically delegated by the Constitution. Therefore, any powers that are not delegated remain with the states and their legislatures. When the States adopted the text of the Constitution with their representatives, they gave up certain rights and powers, the so-called ‘transfer of sovereignty’.³⁵ The Court opened this debate in its argument as to who actually has the power to decide on matters relating to the right to vote. White argues that the power of the states over electoral law cannot be taken away from the states because it would jeopardise the foundations of the union and the two branches of government (state and federal) by rendering elected representatives illegitimate by invalidating the process by which they are elected by a court or other body.

In examining Amendment XV, the court made two findings. On the one hand, it found that the Amendment XV itself does indeed provide a limit to the right to vote, since one cannot restrict the right to vote ‘*on the basis of race, colour or previous servitude*’. In this regard, it may indeed appear that the exercise of the right is being taken away by the federal government, but as the court explained in its opinion, this is not the case, merely that the exercise of this state right, like rights in general, are not unlimited. According to White, this limitation does not lead to a discharge of state powers, thus compromising the balance between federal and state powers, nor does it violate the rule of Article 1 of the Constitution.

At the same time, the court concluded that the clause, which could be linked to 1 January 1866, was clearly intended to exclude certain groups from the right to vote or to make it more burdensome for them to exercise that right. This is clearly a period when the Amendment XV to the Constitution, which would have prohibited discrimination on the grounds of ‘race’ in the right to vote, was not in force, and it is therefore the reference to this specific date which constitutes discrimination. It is inconceivable, in the court’s view, that such a clause would not violate the Amendment XV, even though it does not use the term ‘race’. Indeed, if such state legislation could be enacted, it could completely eviscerate Amendment XV. In so holding, the Supreme Court was contradicting an earlier decision of the panel, which had held otherwise in *Plessy v. Ferguson*. In *Guinn*, however, there was also a risk that the court would interpret that only direct discrimination could be a basis for unlawfulness.

The second question raised by the Eighth Circuit Federal Court of Appeals was whether the literacy requirement itself was legal. In view of the above, it is not surprising that the court again considered the question of who has the authority to decide on the right to vote. In view of the lack of jurisdiction of the federal government, and thus the Supreme Court, the court recognized the literacy clause as a valid norm. White’s reasoning seeks to avoid deciding the question, as the court finds that it is not for them to decide the question of validity, but that they are bound to decide the question posed. The court concludes that the test itself is lawful, but that in the present case the test and the grandfather clause are so intertwined as to render the entire Oklahoma amendment null and void.

Ultimately, the Supreme Court reached the following decision by a unanimous vote. On the one hand, the grandfather clause of the Oklahoma Constitutional Amendment is invalid because it violates Amendment XV. Further, given that the grandfather clause cannot be sharply distinguished from the Oklahoma voting rights standard, the entire amendment is invalid. Amendment XV. does not deprive the states of the right to vote, but it does deny both the states and the United States the right to discriminate based on race or color in voting rights matters. State regulations that establish rights, obligations, or make the exercise of rights more

³⁵ For the details of the separation of powers and the frame of the constitution see Képes, György: A tökéletesebb unió: az Amerikai Egyesült Államok alkotmánya. Gondolat Kiadó, Budapest, 2003.

burdensome by reference to a time when the Amendment XV was not in force are contrary to that Amendment.

V. Summary

The decision in *Guinn v. United States* is a landmark case in the struggle for voting rights of the African Americans. The case, following *Plessy v. United States*, held out the possibility that the Supreme Court and the central government would do everything in their power to ensure the voting rights of African Americans across the union were settled. After all, the very exclusion from the right to vote is the basis for further discrimination, because if more African Americans have the right to vote, there is more chance that other discriminatory laws will not be passed. However, the Supreme Court's decision does not end the era of discriminatory legislation in Oklahoma. Soon after the decision, the state enacted legislation that those who had voted in the 1914 election did not have to register to vote, but all others did, because the grandfather clause meant that almost no African Americans voted in 1914. This decision was later overturned by a federal court, but only after it made it more difficult for so many African Americans to exercise their right to vote for decades.³⁶

In the African American struggle for voting equality, *Guinn v. United States* was a significant step, but not the final one. Efforts to restrict voting rights continued in many Southern states. As I explained earlier, behind this was the Democratic Party's fear that by giving African Americans the right to vote, they would permanently lose the chance to come to power or to stay in power. But the Republicans were not idle either, and it is clear that there was a political thread behind the *Guinn* decision. President Taft filled five Supreme Court seats during his term, helping to ensure that the Republicans were eventually able to win the case.³⁷ The fight for African Americans' right to vote began after their emancipation from slavery and did not end until the Voting Rights Act of 1965. However, as with all rights throughout history, it must still be defended by the various institutions charged with this task, as procedural issues of voting rights remain within the purview of the state, and recent examples show that indirect discrimination has not completely disappeared from the legislature.

³⁶ Tepker Jr., Harry F.: The Dean Takes His Stand: Julien Monnet's 1912 Harvard Law Review Article Denouncing Oklahoma's Discriminatory Grandfather Clause, *Oklahoma Law Review* vol. 62 (2010) no. 3, pp. 441-447.

³⁷ Nagyné Szegvári, Katalin: *Fejezetek az Amerikai Alkotmány történetéből*, hvgorac, Budapest, 2002. pp. 68.